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SERVICE DATE – DECEMBER 19, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34788]

Mitchell-Rapid City Regional Railroad Authority and Dakota Southern Railway
Company—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights to the Mitchell-Rapid City Regional Railroad Authority (MRC, a political subdivision of the State of South Dakota) and the Dakota Southern Railway Company (DSRC, a sublessee/contract operator for MRC) (MRC and DSRC are referred to collectively as “User”) at Mitchell, SD: (1) between BNSF’s connection with DSRC, at milepost (MP) 650.65, and DSRC-leased tracks in BNSF’s Mitchell yard, at MP 650.16; and (2) between BNSF’s Mitchell yard, at MP 650.16, and the Grain Shuttle Facility at Mitchell, at MP 652.9. In addition to User’s right to utilize the Mitchell yard pursuant to other agreements, User shall also have the right to ingress and egress the Mitchell yard for the purpose of “running around” its train at Mitchell, if operationally necessary to originate traffic from or terminate traffic at the Grain Shuttle Facility. The new rights granted by BNSF apply only to traffic that originates or terminates on the rail line between Mitchell, SD, and Kadoka, SD (as that line existed as of April 25, 2005), and that originates or terminates at the Grain Shuttle Facility. Under the agreement entered into by BNSF and MRC/DSRC: MRC would be able to utilize the new rights granted by

BNSF with another sublessee/contract operator (other than a Class I or Class II railroad or the Dakota, Minnesota & Eastern Railroad Corporation); and, if MRC ceases to be the lessee of the State of South Dakota for the corridor between Mitchell and Rapid City, SD, the new rights granted by BNSF will be automatically assigned to the State of South Dakota.

The trackage rights granted by BNSF were scheduled to become effective on or after December 6, 2005. The purpose of the trackage rights is to allow MRC/DSRC to move traffic between points on the Mitchell-Kadoka Line and the Grain Shuttle Facility at Mitchell.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605, 610-15 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653, 664 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34788, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on User's representative: Michael J. Barron, Jr., FLETCHER & SIPPEL LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2875.

Board decisions and notices are available on its website at
“WWW.STB.DOT.GOV.”

Decided: December 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary